IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11152 of 2004

Between:

K.B. Khanna, S/o Late R.D. Khanna,
R/o 23/5/848, Shalibanda, Hyderabad.

..... PETITIONER

AND

1 The Station House Officer , Police Station Saifabad, Hyderabad.
2 The Deputy Commissioner of Police, Central Zone, Hyderabad.
3 The Commissioner of Police, Twin Cities, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more in the nature of mandamus declaring the non action of respondents 1 to 3 in not initiating action on the written representation to respondents taking into the consideration of the petitioner complaint dated 20-8-2003 to R1 and 28-2-2004 to R2 and 23-3-04 R3 as being illegal, arbitrary and against the principle of natural justice and consequently direct the respondents to initiate the appropriate legitimate actions on the representations of petitioner.

Counsel for the Petitioner:PARTY-IN-PERSON

Counsel for the Respondent No.: GP FOR HOME

The Court made the following **ORDER**:

Heard both sides. At their request, the writ petition itself is taken up for final disposal at the stage of interlocutory.

The petitioner, who claims to be the owner of the vehicles in question, filed this writ petition, *inter alia*, seeking a direction to the respondents in not initiating any action on the representations filed by him, on 20-08-003, 28-02-2004 and 23-03-2004.

The case of the petitioner is that he filed a criminal complaint before the XV Munisif Magistrate, Hyderabad, which was taken on file as Crime No.649 of 2003, stating that he was cheated by the accused and he is the registered owner of Vehicle Nos. AP 05 AC 2525-MARUTHI ZEN-D and AP 13 C 9339-MARUTHI CAR, which were given to the accused for sale. The accused neither returned the vehicles in question nor made any payment. Hence, he made a representation to the 1st respondent requesting to seize the vehicles in question, but no action was taken. Aggrieved thereby, he made another representation to the 2nd respondent on 28-03-2004 for return the original registration card and seizure of vehicles from the illegal custodians and for submission into the custody of the trial Court, but the 2nd respondent has ignored the same. Against the action of the 2nd respondent, he also made a representation to the 3rd respondent, but in vain. Therefore, he seeks a direction to the respondents for seizure of the said vehicles and for submission into the custody of the trial Court, where the crime is registered.

On considering the submissions made on either side and also on perusal of the material on record, it is seen that the request of the petitioner is totally beyond the scope of Article 226 of the Constitution of India. Admittedly, the case is pending before the Court of XV Munsif Magistrate, Hyderabad. Therefore, the petitioner can

as well file appropriate application and seek necessary relief before the said Court.

Under the above circumstances, the writ petition is dismissed permitting the petitioner to file appropriate application and seek necessary relief before the Court of XV Munsif Magistrate, Hyderabad. On such application being filed, the learned Magistrate shall consider and dispose of the same, on merits, in accordance with law, after giving adequate opportunity to both the parties. No costs.

02-08-2004

GJ

To

1 The Station House Officer, Police Station Saifabad, Hyderabad.
2 The Deputy Commissioner of Police, Central Zone, Hyderabad.
3 The Commissioner of Police, Twin Cities, Hyderabad.

4. Two C.Cs. to the Government Pleader for Home, High Court

Buildings, Hyderabad (OUT)

5. Two C.D. copies.